

**VII. MINIMUM CHANNEL LOADING REQUIREMENTS
FOR ANALOG SYSTEMS WITH A MINIMUM
BANDWIDTH OF 10 MHz OR MORE SHOULD BE 25%**

In new Section 101.141(c), analog systems using a bandwidth of 10 MHz or above must meet a 50% minimum channel loading requirement.⁴⁵ TIA and NSMA, in their Joint Reply Comments, proposed adoption of a 25%, instead of a 50%, minimum loading requirement.⁴⁶

This proposal was made to provide users necessary flexibility to design their networks, consistent with typical analog system architecture, without installing unnecessary or additional equipment and without making extensive configuration requirements.⁴⁷ There has been no objection to TIA and NSMA's proposal in the record. Thus, the Commission should incorporate this proposal into Section 101.141(c).⁴⁸

**VIII. CERTAIN CLERICAL ERRORS IN THE
RULES MUST BE CORRECTED AND CERTAIN
PROVISIONS IN THE RULES MUST BE CLARIFIED**

The task of assimilating all the proposals on the record of this proceeding was difficult at best. Confronted with this daunting task, the Commission is to be commended for navigating through these proposals and adopting a comprehensive, accurate set of rules.

However, in reviewing the actual text of the adopted rules, TIA and NSMA identified the following provisions that need correction or clarification:⁴⁹

⁴⁵Part 101 Order, Appendix A.

⁴⁶TIA and NSMA Joint Reply Comments at 25.

⁴⁷TIA and NSMA Joint Reply Comments at 25.

⁴⁸See proposed revised text for Section 101.141(c) in Appendix 1.

⁴⁹These revisions, and a limited number of corrected typographical errors, are set forth in Appendix 1. In addition, Parts 25, 24, 78 and 90 still list obsolete references to Parts 21 and 94. These references,

- Section 101.31(a)(3) -- This rule governs grant of STA. TIA and NSMA propose revising it to ensure that POFS and CC users are treated the same with respect to their STA requests.
- Section 101.31(a)(3)(ii) -- This provision, which requires an applicant for STA to describe the emergency or equipment damage necessitating the request, is unnecessary and should be deleted.
- Section 101.31(b) -- TIA and NSMA propose changing this subsection from "Temporary authorizations" to "Operation at temporary locations." This change more accurately describes the content of the rule.
- Section 101.31(b)(1)(i) -- TIA and NSMA propose decreasing the period before an application must be filed to convert a temporary authorization into a permanent authorization from 90 days to 60 days prior to expiration of the temporary authorization. This proposal is made because a 90-day period is too long.
- Section 101.31(b)(3)(vi) -- The cross-reference in this rule to Section 101.21(e) for operations to be conducted within the coordination distance contours of a fixed earth station is corrected so that the appropriate cross-reference is to Section 101.21(i).
- Section 101.63(b) -- This rule defines when construction has been completed and when operation commences. TIA and NSMA propose revising this rule so it conforms to the Commission's discussion, in paragraph 37 of the Part 101 Order, of what constitutes "in operation."⁵⁰
- Section 101.101 -- This rule sets out the frequency availability for different services. The Commission lists certain services as being authorized to operate on specified bands. TIA and NSMA propose correcting this chart so that only the appropriate frequencies are listed.
- Section 101.103(d)(1) -- The cross-references in this rule to Section 101.21(f) for coordinating frequency usage with fixed satellite service stations is corrected so that the appropriate cross-reference is to Section 101.21(i).
- Section 101.105(c)(3) -- This rule specifies the interference showings that must be made by multiple address system ("MAS") applicants for certain

which are listed in Appendix 2, should be revised to the appropriate Part 101 reference.

⁵⁰Part 101 Order, 2 Comm. Reg. (P&F) at 552.

frequencies. This rule only references the MAS frequencies listed in Section 101.147(b)(1), but it should be revised to reference the other MAS frequencies listed in Sections 101.147(b)(2)-(4).

- Section 101.113(c) -- This rule specifies transmitter power limitations. The 21,200 to 23,600 MHz band is shown with footnote (4), which relates to output power of a DEMS System nodal transmitter. This footnote instead should be listed for the 18,800 to 19,700 MHz band where such operations are conducted. In addition, footnote (6) is revised to cross-reference the correct provision in the Section 101.147 list of frequency assignments.
- Section 101.115 -- Footnote 10 to the table for Antenna Standards must be revised to cross-reference the correct provision in the Section 101.147 list of frequency assignments.
- Section 101.143 -- This rule, which prescribes minimum path length requirements, includes a formula for calculating EIRP for short length paths. TIA and NSMA propose that the MAX EIRP variable should cross-reference Section 101.113, where it is stated per band.
- Section 101.145(a) -- References to subsections in this rule governing interference to geostationary-satellites are corrected.
- Section 101.147(a) -- TIA and NSMA propose revising the footnotes for the list of frequency assignments to reflect the appropriate services.
- Section 101.147(j) -- This subsection covers mobile frequencies in the 6,425-6,525 MHz band. It is revised to delete the reference to Part 21. This band includes only point-to-point frequencies and such frequencies no longer are subject to Part 21.
- Sections 101.803(a) and (d) -- TIA and NSMA propose revising the list of frequencies for Local Television Transmission Service to ensure that the appropriate requirements apply to the correct bands.
- Section 101.815(a)(5) -- TIA and NSMA propose revising this subsection to cross-reference the correct rule.

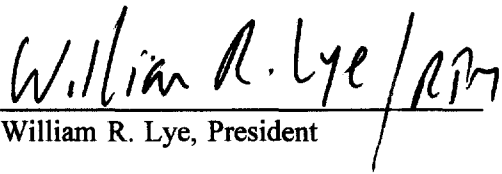
CONCLUSION

Consolidation of all CC and POFS technical and operating rules will greatly assist FS users, frequency coordinators and manufacturers in their efforts to continue providing essential

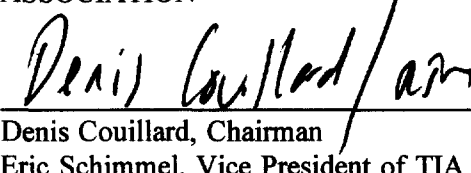
services. The changes to the new Part 101 rules proposed herein are relatively minor. Adoption of these changes, however, will ensure that this new menu of rules is complete, consistent with industry needs and fully supportive of the public interest.

Respectfully submitted,

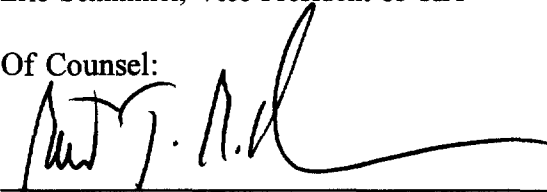
NATIONAL SPECTRUM MANAGERS
ASSOCIATION, INC.


William R. Lye, President

FIXED POINT-TO-POINT COMMUNICATIONS
SECTION, NETWORK EQUIPMENT DIVISION
OF THE TELECOMMUNICATIONS INDUSTRY
ASSOCIATION


Denis Couillard, Chairman
Eric Schimmel, Vice President of TIA

Of Counsel:


Robert J. Miller
Gardere & Wynne, L.L.P.
1601 Elm Street, Suite 3000
Dallas, Texas 75201
(214) 999-3000

June 26, 1996

254229.02/gw03

APPENDIX 1

In this Appendix 1, TIA and NSMA submit the text of the new Part 101 rules as adopted in the Part 101 Order, marked to show the changes proposed in this Petition for Reconsideration. Appendix 1 also is being provided on computer disk to the Commission.

Only the Part 101 rules where TIA and NSMA propose such changes are listed in Appendix 1. All other Part 101 rules should remain the same.

The following Part 101 rule sections should be revised as proposed herein:

1. Section 101.4 -- Transition period
2. Sections 101.13 and 101.15 -- Application forms and requirements
3. Section 101.29 -- Amendment of pending applications
4. Section 101.31 -- Special temporary, temporary, and conditional authorizations
5. Section 101.47 -- Consideration of applications
6. Section 101.59 -- Processing of applications for facility minor modifications
7. Section 101.61 -- Certain modifications not requiring prior authorization
8. Section 101.63 -- Period of construction; certification of completion of construction
9. Section 101.71 -- Public list regarding Private Operational Fixed Point-to-Point Microwave Service applications and actions [new section]
10. Section 101.101 -- Frequency availability
11. Section 101.103 -- Frequency coordination procedures
12. Section 101.105 -- Interference protection criteria
13. Section 101.109 -- Bandwidth
14. Section 101.113 -- Transmitter power limitations
15. Section 101.115 -- Directional antennas

16. Section 101.141 -- Microwave modulation
17. Section 101.143 -- Minimum path length requirements
18. Section 101.145 -- Interference to geostationary-satellites
19. Section 101.147 -- Frequency assignments
20. Section 101.803 -- Local Television Transmitter Service Frequencies
21. Section 101.815 -- Local Television Transmitter Service Stations at temporary fixed locations

§101.4 Transition period.

- (a) All systems subject to Parts 21 and 94 of the Rules, which are licensed or which are proposed in an application on file, as of the effective date of this part, are subject to the requirements under Part 21 or Part 94, as ~~applicable.~~ **applicable, indefinitely.**
- (b) NO CHANGE.
- (c) NO CHANGE.

**§101.13 Application forms and ~~requirements for private operational fixed stations.~~
requirements.**

- (a) A separate application must be submitted on FCC Form 402 _____ for the following:
 - (1) New station ~~authorization for private operational fixed microwave stations.~~
authorization.
 - (2) New authorization to operate one or more fixed stations at temporary locations in this service.
 - (3) Modification of station license.
 - (4) New station authorization or modification of license for each master station of a system consisting of a master station and its associated remote stations.
 - (5) The Commission's consent to the complete or partial assignment of an authorization to another person or entity, or the transfer of control of an entity holding an authorization. In addition, the application must be accompanied by a signed letter from proposed assignor/transferor stating the desire to assign all or part of its right, title, and interest in and to such authorization, or to transfer control over the entity holding the authorization, stating the call sign and location of the station, and that, if applicable, the assignor will submit its current station authorization for cancellation upon completion of the assignment. Form 1046 may be used in lieu of this letter. Licensees who fail to consummate must modify their licenses to conform them to their initial state within 30 days of failure to consummate. **Such assignment or transfer of control must be consummated within 45 days from the date of Commission approval, and the Commission must be notified by letter of the date of consummation within 10 days of its occurrence.**
- (b) An application for authority to operate a fixed station at temporary locations must specify the precise geographic area within which the operation will be confined. The area specified must be defined as a radius of operation about a given state or states, latitude/longitude, or as a rectangular area bounded by upper and lower lines of latitude and longitude. Exception to this

specific requirement may be made for exceptionally large areas, such as the continental United States. Sufficient data must be submitted to show the need for the proposed area of operation.

(1) If ~~an operational fixed~~ **a fixed** station is authorized to be operated at temporary locations and actually remains, or is to remain, at the same location for a period of over a year, application for a permanent authorization specifying the fixed location must be made as soon as possible but not later than 30 days after the expiration of the one-year period.

(c) A separate Form 402 _____ for point-to-multipoint frequencies in the 10.6 GHz and 18 GHz bands must be filed for each Nodal Station except for operations consistent with §101.147. Each Nodal Station application must specify the service area that will be served by the station in terms of a distance radius or other geographical specification, and, if applicable, the Standard Metropolitan Statistical Area (SMSA) being served.

(d) Application for renewal of station licenses must be submitted on such form as the Commission may designate by public notice: **notice pursuant to §101.37 or by public listing pursuant to §101.71. [CHANGE UNNECESSARY IF POFS PUBLIC NOTICE REINSTATED]** Applications for renewal must be made during the license term and should be filed within 90 days, but not later than 30 days, prior to the end of the license term. When a licensee submits a timely application for renewal of a station license, the existing license for that station will continue as a valid authorization until the Commission has made a final decision on the application. Whenever a group of station licenses in the same radio service are to be renewed simultaneously, a single "blanket" application may be filed to cover the entire group if the application identifies each station by call sign and station location. ~~Applicants should note also any special renewal requirements under the rules for such radio station(s).~~

(e) A separate application must be filed for each fixed master station in a Multiple Address System (MAS). Applications may include any number of remote stations in a single application, but must specify the geographic service area in which these remote stations will be located. Applications for mobile operations or for systems employing only remote stations must designate a reference point (set of coordinates) at or near the center of the area being served.

(f) Cancellation of license can be made by letter.

§101.15 ~~Application forms for common carrier fixed stations.~~

~~(a) New or modified facilities. FCC Form 494 must be submitted and a license granted for each station. FCC Form 494 also must be submitted to amend any license application, to modify any license pursuant to §§101.57(a) and 101.59, and to notify the Commission of modifications made pursuant to §101.61. Cancellation of a license can be made by letter.~~

(g) Certification of completion of construction. FCC Form _____ must be submitted to certify completion of construction.

(b) ~~(h)~~ Additional time to construct. FCC Form 701 ("Application for Additional Time to Construct Radio Station") must be filed prior to the expiration of the time for construction noted in a ~~conditional~~ license to modify the license by extending the period of construction.

~~(c) — Renewal of station license. Except for renewal of special temporary authorizations, FCC Form 405 ("Application for Renewal of Station License") must be filed by the licensee between thirty (30) and sixty (90) days prior to the expiration date of the license sought to be renewed. Whenever a group of station licenses in the same radio service are to be renewed simultaneously, a single "blanket" application may be filed to cover the entire group if the application identifies each station by call sign and station location. Applicants should note also any special renewal requirements under the rules for each radio service. When a licensee submit a timely application for renewal of a station license, the existing license continues in effect until the Commission has rendered a decision on the renewal application.~~

~~(e) — Assignment of license. FCC Form 702 ("Application for Consent to Assignment of Radio Station Construction Authorization or License for Stations in Services Other than Broadcast") must be submitted to assign voluntarily (as by, for example, contract or other agreement) or involuntarily (as by, for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment (or transfer of control) the application must be filed within 10 days of the event causing the assignment (or transfer of control). FCC Form 702 must also be used for non-substantial (pro forma) assignments. Whenever a group of station licenses in the same radio services are to be assigned to a single assignee, a single "blanket" application may be filed to cover the entire group, if the application identifies each station by call sign and station location. Licensees who fail to consummate must modify their licenses to conform them to their initial state within 30 days of a failure to consummate.~~

~~(f) — Partial assignment of license. Authorization for assignment from one company to another of only a part or portions of the facilities (transmitters) authorized under an existing license (as distinguished from an assignment of the facilities in their entirety) may be granted upon application:~~

~~(1) — By the assignor on FCC Form 494 for deletion of the assigned facilities (no fee required).~~

~~(2) — By the assignee on FCC Form 494 with a request for recertification in the name of the assignee for frequencies eliminated from assignor's license (fee required).~~

~~In the event that consummation does not occur, FCC Form 494 must be submitted to return the assignor's license to its original condition.~~

~~(g) — Transfer of control of corporation holding a conditional license or license. FCC Form 704 ("Application for Consent to Transfer of Control") must be submitted in order to voluntarily or involuntarily transfer control (de jure or de facto) of a corporation holding any conditional licenses or licenses. FCC Form 704 must also be used for non-substantial (pro forma) transfers~~

~~of control. Licensees who fail to consummate must modify their licenses to conform them to their initial state within 30 days of a failure to consummate.~~

§101.29 Amendment of pending applications.

(a) NO CHANGE.

(b) NO CHANGE.

(c) The Commission will classify amendments on a case-by-case basis. Whenever previous amendments have been filed, the most recent amendment will be classified by reference to how the information in question stood as of the latest Public Notice or public listing issued under §101.37 or §101.71 which concerned the application. **[CHANGE UNNECESSARY IF POFS PUBLIC NOTICE REINSTATED]** An amendment will be deemed to be a major amendment subject to §101.37 and §101.45 **§101.37, §101.45, and §101.71** under any of the following circumstances: **[CHANGE UNNECESSARY IF POFS PUBLIC NOTICE REINSTATED]**

(1) if the amendment results in a substantial modification of the engineering proposal such as (but not necessarily limited to):

(i) A change in, or an addition of a radio frequency channel;

(ii) A change in polarization of the transmitted signal;

(iii) An increase in the equivalent isotopically radiated power of three (3) dB or more;

(iv) A change in type of transmitter emission or an increase in emission bandwidth of more than ten (10) percent;

(v) A change in the geographic coordinates of a station's transmitting antenna of more than five (5) seconds of latitude or longitude, or both;

(vi) A change of more than one (1) degree in the azimuth of the center of the main lobe of radiation of a point-to-point station's transmitting antenna (including any deflections by repeating devices);

(vii) Any change which increases the antenna center line height by 3.0 meters (ten (10) feet) or more;

(viii) Any changes or combination of changes which would cause harmful electrical interference to an authorized facility or result in a mutually exclusive conflict with another pending application: or

(ix) Any technical change that would increase the effective radiated power in any direction by more than one and one-half (1.5) dB in the Digital Electronic Message Service.

(2) If the amendment would convert a proposal, such that it may have a significant impact upon the environment under §1.1307 of the Commission's rules, which would require the submission of an environmental assessment, see §1.1311 of this chapter, and Commission environmental review, see §§1.1308 and 1.1312 of this chapter.

(3) If the amendment results in a substantial and material alteration of the proposed service.

(4) If the amendment specifies a substantial change in beneficial ownership or control (*de jure* or *de facto*) of an applicant such that the change would require, in the case of an authorized station, the filing of a prior assignment or transfer of control application under §310(d) of the Communications Act of 1934 [47 U.S.C. §310(d)]. Such a change would not be considered major where the assignment or transfer of control is for legitimate business purposes other than the acquisition of applications.

(5) If the amendment, or the cumulative effect of the amendment, is determined by the Commission otherwise to be substantial pursuant to §309 of the Communications Act of 1934.

(d) NO CHANGE.

(e) The applicant must serve copies of any amendments or other written communications upon the following parties:

(1) Any applicant whose application appears on its face to be mutually exclusive with the application being amended, including those applicants originally served under §101.509;

(2) Any applicant whose application has been found by the Commission, as published in a public notice, notice pursuant to §101.37, or as published in a public listing pursuant to §101.71 to be mutually exclusive with the application being ~~amended; and amended.~~ **[CHANGE UNNECESSARY IF POFS PUBLIC NOTICE REINSTATED]**

(3) Any party who has filed a petition to deny the application or other ~~formal~~ objection, when that petition or ~~formal~~ objection has not been resolved by the Commission. **[CHANGE UNNECESSARY IF POFS PUBLIC NOTICE REINSTATED]**

(f) The Commission may waive the service requirements of paragraph (e) of this section and prescribe such alternative procedures as may be appropriate under the circumstances to protect ~~petitioners'~~ other parties' interests and to avoid undue delay in a proceeding, if an applicant submits a request for waiver which demonstrates that the service requirement is unreasonably burdensome. Requests for waiver must be served on ~~petitioners.~~ other parties. Oppositions to

the petition may be filed within five (5) days after the ~~petition~~ **waiver** is filed and must be served on the applicant. Replies to oppositions will not be entertained.

(g) NO CHANGE.

§101.31 Special temporary, temporary, and conditional authorizations.

(a) Special temporary authorization.

(1) In circumstances requiring immediate or temporary use of facilities, licensees subject to this part may request special temporary authority to install and/or operate new or modified equipment. Any such request may be submitted as an informal application in the manner set forth in §101.9 and must contain full particulars as to the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein. No such request will be considered unless the request is received by the Commission at least 10 days prior to the date of proposed construction or operation or, where an extension is sought, expiration date of the existing temporary authorization.

(2) Special temporary authorization may be granted upon written request in the following circumstances:

(i) in emergency situations;

(ii) to permit restoration or relocation of existing facilities to continue communication service;

(iii) to conduct tests to determine necessary data for the preparation of an application for regular authorization;

(iv) for a temporary, non-recurring service where a regular authorization is not appropriate;

(v) in other situations involving circumstances which are of such extraordinary nature that delay in the institution of temporary operation would seriously prejudice the public interest.

(3) The Commission may grant requests for special temporary authority ~~without issuing the public notice provided for in §101.37 of this chapter~~ for periods not exceeding 180 days, if there are extraordinary circumstances supporting the request and where delay in commencing temporary operation would seriously prejudice the public interest. Requests for special temporary authorization not involving extraordinary circumstances may be granted ~~without public notice~~ for a period of 30 days where an application for regular operation is not contemplated or for 60 days pending or after the filing of an application for regular operation. Requests for special temporary authority are issued on a strictly secondary, non-interfering basis,

and does not in any way affect the final disposition of any application or action pending before the Commission.

(4) Extension of special temporary authorization for a period of 180 days may be granted, ~~but~~ **but** the renewing applicant bears a heavy burden to show that extraordinary circumstances warrant such an extension.

(5) Request for special temporary authorization must contain the following information:

- (i) Name, address, and citizenship status of the applicant;
- (ii) Need for special ~~action, including a description of any emergency or damage to equipment;~~ **action;**
- (iii) Type of operation to be conducted;
- (iv) Purpose of operation;
- (v) Time and date of operation desired;
- (vi) Class of station and nature of service;
- (vii) Location of station and points with which station will communicate;
- (viii) Equipment to be used, specifying manufacturer, model number, and number of units;
- (ix) Frequency(s) desired.
- (x) Azimuth and beamwidth of major lobe of transmitting antenna and ERP;
- (xi) Type of emission;
- (xii) Description of antenna to be used, including height.
- (xiii) Certification that prior coordination is complete.

(6) In cases of emergency found by the Commission, involving danger to life or property or due to damage of equipment, or during a national emergency proclaimed by the President or declared by the Congress or during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or safety or otherwise in furtherance of the war effort, or in cases of emergency where the Commission finds that it would not be feasible to secure renewal applications from existing licensees or otherwise

to follow normal licensing procedure, the Commission will grant construction permits and station licenses, or modifications or renewals thereof, during the emergency found by the Commission or during the continuance of any such national emergency or war, as special temporary licenses, only for the period of emergency or war requiring such action, without the filing of formal applications.

~~(b) Temporary authorizations.~~

(b) Operation at temporary locations.

(1) Authorizations may be issued upon proper application for rendition of temporary service to subscribers under the following conditions:

(i) When a fixed station, authorized to operate at temporary locations, is to remain at a single location for more than 6 months, an application (FCC Form ~~402 or 494~~, _____, as appropriate) for a station authorization designating that single location as the permanent location shall be filed at least ~~90~~ 60 days prior to the expiration of the 6-month period.

(ii) The station shall be used only for rendition of communication service at a remote point where the provision of wire facilities is not practicable within the required time frame.

(iii) The antenna structure height employed at any location shall not exceed the criteria set forth in §17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height for each location has been obtained from the Commission prior to erection of the antenna. See §101.125.

(2) Applications for authorizations to operate stations at temporary locations under the provisions of this section shall be made upon FCC Form ~~402 or 494~~, _____, as appropriate. Blanket applications may be submitted for the required number of transmitters.

(3) The licensee of stations which are authorized pursuant to the provisions of paragraph (b) of this section shall notify the Commission at least five (5) days prior to installation of the facilities, stating:

(i) The call sign, manufacturer's name, type or model number, output power and specific location of the transmitter(s).

(ii) The maintenance location for the transmitter.

(iii) The location of the transmitting or receiving station with which it will communicate and the identity of the correspondent operating such facilities.

(iv) The exact frequency or frequencies to be used.

(v) ~~The public interest, convenience and necessity to be served by operation of the proposed installation.~~ (vi) The commencement and anticipated termination dates of operation from each location. In the event the actual termination date differs from the previous notification, written notice thereof promptly shall be given to the Commission.

(vii) (vi) A notification shall include compliance with the provisions of §101.21(e) when operations are to be conducted in the area of other terrestrial microwave stations and with the provisions of ~~§101.21(e)~~ §101.21(i) when operations are to be conducted within the coordination distance contours of a fixed earth station.

~~(viii)~~ (vii) Where the notification contemplates initially a service which is to be rendered for a period longer than 90 days, the notification shall contain a showing as to why application should not be made for regular authorization.

(4) Less than 5 days advance notice may be given when circumstances require shorter notice provided such notice is promptly given and the reasons in support of such shorter notice are stated.

(5) A copy of the notification shall be kept with the station license.

(c) NO CHANGE.

(d) NO CHANGE.

(e) Conditional authorization.

(1) An applicant for a new point-to-point microwave radio station(s) or a modification of an existing station(s) in the 932-941 (point-to-point only); 952-960 (point-to-point only); 2110-2200 (point-to-point only); 3,700-4,200; 5,925-6,425; 6,525-6,875; 10,550-10,680; 10,700-11,700; 11,700-12,200; 12,200-12,700; 12,700-13,200; 13,200-13,250; 17,700-19,700; and 21,200-23,600 MHz bands (see §101.147 for specific service usage) may operate the proposed station(s) during the pendency of its application(s) upon the filing of a properly completed formal application(s) that complies with Subpart B of Part 101 of the Commission's Rules if the applicant certifies that the following conditions are satisfied:

(i) The frequency coordination procedures of §101.103 have been successfully completed:

(ii) The antenna structure(s) has been previously studied by the Federal Aviation Administration and determined to pose no hazard to aviation safety as required by Subpart B of Part 17 of the Commission's Rules; or the antenna or tower structure does not exceed 6.1 meters above ground level or above an existing man-made structure (other than an antenna structure), if the antenna or tower has not been previously studied by the Federal Aviation Administration and cleared by the FCC;

(iii) The grant of the application(s) does not require a waiver of the Commission's Rules;

(iv) The applicant has determined that the facility(ies) will not significantly affect the environment as defined in §1.1307 of the Commission's Rules;

(v) The station site(s) does not lie within 56.3 kilometers of any international border or within a radio "Quiet Zone" identified in §101.123;

~~§101.123, or if~~ (vi) If operated on frequencies in the 17,700-19,700 MHz band, the station site(s) does not lie within the states of Colorado, Maryland and Virginia and the District of Columbia;

(vii) if operated on frequencies in the 10.6-10.68 GHz band, the station site(s) does not lie within the following areas:

National Radio Astronomy Observatory, Green Bank, West Virginia --
Rectangle between latitudes 37°00 N. and 39°15 N. and
longitudes 78°30 W. and 80°30 W.

National Radio Astronomy Observatory, Socorro, New Mexico --
Rectangle between latitudes 32°30 N. and 35°30 N. and
between longitudes 106°00 W. and 109°00 W.

Owens Valley Radio Observatory, Big Pine, California --
Two contiguous rectangles, one between latitudes 36°00 N. and
37°00 N. and between longitudes 117°40 W. and 118°30 W.
and the second between latitudes 37°00 N. and 38°00 N. and
longitudes 118°00 W. and 118°50 W.

Hat Creek Observatory, Hat Creek, California --
Rectangle between latitudes 40°00 N. and 42°00 N. and
between longitudes 120°15 W. and 122°15 W.

Harvard Radio Astronomy Station, Fort Davis, Texas --
Rectangle between [TO BE DETERMINED]

Naval Research Laboratory, Maryland Point, Maryland --
Rectangle between [TO BE DETERMINED]

(vi) (viii) The filed application(s) does not propose to operate ~~in the 10.6-10.68 GHz band, or~~ in the 21.2-23.6 GHz band with an E.R.P. greater than 55 dBm pursuant to §101.147(s); and

(vii) (ix) The filed application(s) is consistent with the proposal that was coordinated pursuant to §101.103 of the Commission's Rules.

(2) conditional authority ceases immediately if the application(s) is returned by the Commission because it is not acceptable for filing.

(3) A conditional authorization pursuant to (1) and (2) above is evidenced by retaining the original executed conditional licensing Certification Form with the station records. Conditional authorization does not prejudice any action the Commission may take on the subject application(s). Conditional authority is accepted with the express understanding that such authority may be modified or cancelled by the Commission at any time without hearing if, in the Commission's discretion, the need for such action arises. An applicant operating pursuant to this conditional authority assumes all risks associated with such operation, the termination or modification of the conditional authority, or the subsequent dismissal or denial of its application(s).

(4) The Certification Form, or a copy thereof, must be posted at each station operating pursuant to this rule section consistent with §101.215.

§101.47 Consideration of applications.

(a) NO CHANGE.

(b) NO CHANGE.

(c) NO CHANGE.

(d) NO CHANGE.

(e) NO CHANGE.

(f) Whenever the public interest would be served thereby the Commission may grant one or more mutually exclusive applications expressly conditioned upon final action on the applications, and then either conduct a random ~~section~~ selection process (in specified services under this ~~rules~~ rule part), designate all of the mutually exclusive applications for a formal evidentiary hearing or (whenever so requested) follow the comparative evaluation procedures of §101.51, as appropriate, if it appears:

(1) That some or all of the applications were not filed in good faith, but were filed for the purpose of delaying or hindering the grant of another application;

(2) That the public interest requires the prompt establishment of radio service in a particular community or area;

(3) That a delay in making a grant to any applicant until after the conclusion of a hearing or a random selection proceeding on all applications might jeopardize the rights of the

United States under the provision of an international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest in that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, other statutes, or of the provisions of this chapter.

(g) NO CHANGE.

§101.59 Processing of applications for facility minor modifications.

(a) Unless an applicant is notified to the contrary by the Commission, as of the twenty-first day following the date of public notice, notice under §101.37 or public listing under §101.71 **[CHANGE UNNECESSARY IF POFS PUBLIC NOTICE REINSTATED]**, any application that meets the requirements of paragraph (b) of this section and proposes only the change specified in paragraph (c) of this section will be deemed to have been authorized by the Commission.

(b) NO CHANGE.

(c) NO CHANGE.

(d) NO CHANGE.

§101.61 Certain modifications not requiring prior authorization.

(a) NO CHANGE.

(b) Licensees of fixed stations in the Private Operational Fixed Point-to-Point Microwave, Common Carrier Fixed Point-to-Point Microwave, Local Television Transmission, or Digital Electronic Message Services, may make the facility changes listed in paragraph (c) of this section without obtaining prior Commission authorization, if:

(1) Frequency coordination procedures, as necessary, are complied with in accordance with §101.103(d) or, in the Digital Electronic Message Services, a copy of the notification described in (b)(3) is served on those who were served under §101.509, and

(2) The cumulative effect of all facility changes made within any 60 day period does not exceed the appropriate values prescribed by paragraph (c) of this section, and

(3) The Commission is notified of changes made to facilities by the submission of a completed FCC Form 494 _____ within thirty days after the changes are made.

(c) NO CHANGE.

(d) Licensees may notify the Commission of permissible changes or correct erroneous information on a license not involving a major change (i.e., a change that would be classified as a major amendment as defined by §101.29) without obtaining prior Commission approval by filing FCC Form 494. _____.

§101.63 Period of construction; certification of completion of construction.

(a) NO CHANGE.

(b) Failure to timely begin operation means the authorization cancels automatically and must be returned to the Commission. Neither the capability for transmission nor the transmission of color bars or similar test signals constitutes operation. For purposes of this rule, ~~the transmission of operational traffic, not test or maintenance signals, is necessary and sufficient to constitute operation.~~ **a station will be considered to be in operation when construction is completed and the station is capable of providing service.**

(c) NO CHANGE.

(d) NO CHANGE.

(e) NO CHANGE.

§101.71 Public list regarding Private Operational Fixed Point-to-Point Microwave Service applications and actions. [NEW SECTION UNNECESSARY IF POFS PUBLIC NOTICE REINSTATED]

(a) At regular intervals, the Commission will issue a public list with the following information regarding Private Operational Fixed Point-to-Point Microwave Service applications:

(1) The acceptance for filing of applications and major amendments thereto;

(2) Significant Commission actions concerning these applications;

(3) The receipt of applications for minor modifications made pursuant to §101.59;

(4) Information which the Commission in its discretion believes of public significance; and

(5) Special environmental considerations as required by Part 1 of this chapter.

(b) A public list will not normally be issued for any of the following applications:

(1) For authorization of a minor technical change in the facilities of a proposed or authorized station where such a change would not be classified as a major amendment to a pending application, as defined by §101.29, or as a minor modification to a license pursuant to §101.59;

(2) For temporary authorization pursuant to §101.31;

(3) For an authorization under any of the proviso clauses of §308(a) of the Communications Act of 1934 (47 U.S.C. §308(a));

(4) For consent to an involuntary assignment or transfer of control of a radio authorization; or

(5) For consent to a voluntary assignment or transfer of control of a radio authorization, where the assignment or transfer does not involve a substantial change in ownership or control.

(c) Before Commission action on any application for an instrument of authorization, any person may file informal objections to the grant. The Commission will consider informal objections, but not necessarily discuss them in a written opinion, if the objection is filed at least one day prior to action on the application and the objection is signed by the submitting person with a disclosure of that person's interest. Such objections may be submitted in letter form. The limitation on pleadings and time for filing pleadings provided for in §1.45 will not be applicable to any objections duly filed pursuant to this paragraph.

(d) No party may file a petition to deny against any application listed under this §101.71.

Subpart C - Technical Standards

§101.101 Frequency availability.

FREQUENCY BAND (MHz)	RADIO SERVICE				
	COMMON CARRIER (Part 101)	PRIVATE RADIO (Part 101)	BROADCAST AUXILIARY (Part 74)	OTHER (Parts 15, 21, 24 25, 74, 78 & 100)	NOTES
928 - 929		MAS			
932.0 - 932.5	MAS	MAS			*
932.5 - 935.0	CC	OFS			*
941.0 - 941.5	MAS	MAS			*
941.5 - 944.0	CC	OFS	Aural BAS		*
952 - 960		OFS MAS			
1850 - 1990		OFS		PCS	
2110 - 2130	CC			ET	
2130 - 2150		OFS		ET	
2150 - 2160		OFS		MDS	
2160 - 2180	CC			ET	
2180 - 2200		OFS		ET	
2450 - 2500	LTTS	OFS	TV BAS	ISM	F/M/TF
2650 - 2690		OFS		MDS/ITFS	
3700 - 4200	CC LTTS	OFS		SAT	
5925 - 6425	CC LTTS	OFS		SAT	
6425 - 6525	LTTS	OFS	TV BAS	CARS	M
6525 - 6875	CC	OFS			F/TF
10,550 - 10,680	CC DEMS	OFS DEMS			
10,700 - 11,700	CC LTTS	OFS		SAT	
11,700 - 12,200	LTTS	<u>OFS</u>		SAT	
12,200 - 12,700		OFS		DBS	
12,700 - 13,250	CC LTTS	OFS	TV BAS	CARS	F/M/TF
14,200 - 14,400	LTTS			SAT	
17,700 - 18,580	CC	OFS	TV BAS	SAT CARS	

18,580 - 18,820	CC	OFS	Aural BAS	SAT CARS	
18,820 - 18,920	DEMS	OFS DEMS		SAT	
18,920 - 19,160	CC	OFS	Aural BAS	SAT	
19,160 - 19,260	DEMS	OFS DEMS		SAT	
19,260 - 19,700	CC	OFS	TV BAS	CARS, SAT	
21,200 - 23,600	CC LTTS	OFS			TF
27,500 - 29,500	CC			SAT	
31,000 - 31,300	CC LTTS	OFS	TV BAS	CARS	F/M/TF
38,600 - 40,000	CC	OFS	TV BAS		F/M/TF

BAS: Broadcast Auxiliary Service -- (Part 74)
 CARS: Cable Television Relay Service -- (Part 78)
 CC: Common Carrier Fixed Point-to-Point Microwave Service -- (Part 101, Subparts C & I)
 DBS: Direct Broadcast Satellite -- (Part 100)
 DEMS: Digital Electronic Message Service -- (Part 101, Subpart G)
 ET: Emerging Technologies (per ET Dkt. No. 92-9, not yet assigned)
 ISM: Industrial, Scientific & Medical -- (Part 18)
 ITFS: Instructional Television Fixed Service -- (Part 74)
 LTTS: Local Television Transmission Service -- (Part 101, Subpart J)
 MAS: Multipoint Address System -- (Part 101)
 MDS: Multipoint Distribution Service -- (Part 21)
 OFS: Private Operational Fixed Point-to-Point Microwave Service -- (Part 101, Subparts C & H)
 PCS: Personal Communications Service -- (Part 24)
 SAT: Fixed Satellite Service -- (Part 25)

Notes:

F - Fixed
 M - Mobile
 TF - Temporary Fixed

*-Applications for frequencies in the 932.5-935/941.5-944 MHz bands may be filed initially during a one-week period to be announced by public notice. After these applications have been processed, the Commission will announce by public notice a filing date for remaining frequencies. From this filing date forward, applications will be processed on a daily first-come, first-served basis.

§101.103 Frequency coordination procedures.

- (a) NO CHANGE.
- (b) NO CHANGE.
- (c) NO CHANGE.
- (d) Frequency coordination. For each station authorized under this part, the following frequency usage coordination procedures will apply.

(1) General requirements. Proposed frequency usage must be prior coordinated with existing licensees, permittees and applicants in the area, and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposal in terms of frequency interference on active channels, applied-for channels, or channels coordinated for future growth. Coordination must be completed prior to filing an application for regular authorization, or an amendment to a pending application, or a any major modification to a license. In coordinating frequency usage with stations in the fixed satellite service, applicants must also comply with the requirements of ~~§101.21(f)~~ **§101.21(i)**. In engineering a system or modification thereto, the applicant must, by appropriate studies and analyses, select sites, transmitters, antennas and frequencies that will avoid interference in excess of permissible levels to other users. All applicants and licensees must cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, the party being coordinated with is not obligated to suggest changes or re-engineer a proposal in cases involving conflicts. Applicants should make every reasonable effort to avoid blocking the growth of systems as prior coordinated. The applicant must identify in the application all entities with which the technical proposal was coordinated. In the event that technical problems are not resolved, an explanation must be submitted with the application. Where technical problems are resolved by an agreement or operating arrangement between the parties that would require special procedures be taken to reduce the likelihood of interference in excess of permissible levels (such as the use of artificial site shielding) or would result in a reduction of quality or capacity of either system, the details thereof may be contained in the application.

- (2) Coordination procedure guidelines are as follows:

(i) Coordination involves two separate elements: notification and response. Both or either may be oral or in written form. To be acceptable for filing, all applications and major technical amendments must certify that coordination, including response, has been completed. The names of the licensees, permittees and applicants with coordinated ~~proposals, applicants, permittees, and licensees~~ **proposals** with which coordination was accomplished must be specified. If such notice and/or response is oral, the party providing such notice or response must supply written documentation of the communication upon request.

(ii) Notification must include relevant technical details of the proposal. At minimum, this should include, as applicable, the following:

Applicant's name and address.

Transmitting station name.

Transmitting station coordinates.

Frequencies and polarizations to be added, changed or deleted.

Transmitting equipment type, its stability, actual output power, emission designator, and type of modulation (loading).

Transmitting antenna type(s), model, gain and, if required, a radiation pattern provided or certified by the manufacturer.

Transmitting antenna center line height(s) above ground level and ground elevation above mean sea level.

Receiving station name.

Receiving station coordinates.

Receiving antenna type(s), model, gain, and, if required, a radiation pattern provided or certified by the manufacturer.

Receiving antenna center line height(s) above ground level and ground elevation above mean sea level.

Path azimuth and distance.

Estimated transmitter transmission line loss expressed in dB.

Estimated receiver transmission line loss expressed in dB.

For a system utilizing ATPC, maximum transmit power, coordinated transmit power, and nominal transmit power.

NOTE: The position location of antenna sites shall be determined to an accuracy of no less than ± 1 second in the horizontal dimensions (latitude and longitude) and ± 1 meter in the vertical dimension (ground elevation) with respect to the National Spatial Reference System.

(iii) For transmitters employing digital modulation techniques, the notification should clearly identify the type of modulation. Upon request, additional details of the operating characteristics of the equipment must also be furnished.

(iv) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Any response to notification indicating potential interference must specify the technical details and must be provided to the applicant, in writing, within the 30-day notification period. Every reasonable effort should be made by all applicants, permittees and licensees to eliminate all problems and conflicts. If no response to notification is received within 30 days, the applicant will be deemed to have made reasonable efforts to coordinate and may file its application without a response.

(v) The 30-day notification period is calculated from the date of receipt by the applicant, permittee, or licensee being notified. If notification is by mail, this date may be ascertained by:

- (A) The return receipt on certified mail,
- (B) The enclosure of a card to be dated and returned by the recipient, or
- (C) A conservative estimate of the time required for the mail to reach its destination.

In the latter case, the estimated date when the 30-day period would expire should be stated in the notification.

(vi) An expedited prior coordination period (less than 30 days) may be requested when deemed necessary by a notifying party. The coordination notice should be identified as "expedited" and the requested response date should be clearly indicated. However, circumstances preventing a timely response from the receiving party should be accommodated accordingly. It is the responsibility of the notifying party to receive written concurrence (or verbal, with written to follow) from affected parties or their coordination representatives.

(vii) All technical problems that come to light during coordination must be resolved unless a statement is included with the application to the effect that the applicant is unable or unwilling to resolve the conflict and briefly the reason therefor.

(viii) Where a number of technical changes become necessary for a system during the course of coordination, an attempt should be made to minimize the number of separate notifications for these changes. Where the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified. When changes are not numerous or complex, the party receiving the changed notification should make an effort to respond in less than 30 days. When the notifying party believes a shorter response time is reasonable and appropriate, it may be helpful for that party to so indicate in the notice and perhaps suggest a response date.

(ix) If, after coordination is successfully completed, it is determined that a subsequent change could have no impact on some parties receiving the original notification, these parties must be notified of the change and of the coordinator's opinion that no response is required.

(x) Applicants, permittees and licensees should supply to all other applicants, permittees and licensees within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating applicants, permittees and licensees, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation.